



MEMORANDUM

TO: Mayor and Council

FROM: Gregory I. Guernsey, AICP
Director, Planning and Zoning Department

DATE: December 3, 2015

SUBJECT: Occupancy Ordinance Extension

On March 20, 2014 the City Council passed Ordinance 20140320-062 which amended the dwelling occupancy limit in Chapter 25-2 of the City Code. This ordinance limits occupancy in single family dwellings built after March 2014 to no more than four unrelated adults. In structures built before March 2014 the occupancy limit remains at no more than six unrelated adults. The ordinance also amended occupancy to no more than four unrelated adults total in a duplex built after March 2014. A duplex built between 2003 and 2014 is restricted to no more than three unrelated adults per side. A duplex built before June 2003 is limited to no more than six unrelated adults per side. A two-family residential use, also known as an accessory dwelling unit (ADU) or garage apartment, is limited to four unrelated adults total in both the principal structure and accessory structure. A two-family residential use built before November 2004 is limited to six unrelated adults per unit. A two-family residential use built before 2014 but after 2004 is limited to four unrelated adults in the principal structure and two unrelated adults in the second dwelling unit. Basically, the ordinance grandfathered occupancy to that which was in place when the structure was built.

The ordinance includes an expiration date of March 31, 2016. If the ordinance is not extended or made permanent the occupancy limits will revert to what existed prior to March 2014.

The ordinance also required a staff recommendation to Council in October, 2015 on the possible extension of this ordinance. Planning and Zoning Department staff has consulted with the Residential Review section of the Development Services Department. They reported that the ordinance has not resulted in any issues related to permitting. We also consulted with the Austin Code Department. They reported that the only change was a reduction in the number of complaints related to concerns about what the over occupancy would be of structures under construction.

Planning and Zoning Department staff recommends the permanent extension of the ordinance with a few minor changes. First, the secondary apartment use should be added. This is a use that may be adopted as part of a neighborhood plan and is similar to the two-family residential use. Staff believes it was left out inadvertently. Secondly, given the increase in unit size just approved with the ADU ordinance staff believes that the occupancy for two-family residential should be increased from four per site to five. Staff also believes that the occupancy for a duplex use should also be increased to five per site to account for a duplex that may have three bedrooms on one or both sides.

If you have any questions please contact Jerry Rusthoven, Current Planning Manager, at (512) 974-3207.

Cc: Marc A. Ott, City Manager
Sue Edwards, Assistant City Manager
J. Rodney Gonzales, Director, Development Services Department
Carl Smart, Director, Austin Code Department
Jerry Rusthoven, Current Planning Manager, Planning and Zoning Department